

PROPOSED RESOLUTION

Resolution W-5068
DWA

AGENDA ID #14411

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

DIVISION OF WATER AND AUDITS
Water and Sewer Advisory Branch

RESOLUTION W-5068
November 19, 2015

RESOLUTION

**(RES. W-5068) DEL ORO WATER COMPANY, ORDER
APPROVING DEL ORO WATER COMPANY'S REQUEST TO
ACQUIRE BUZZTAIL COMMUNITY SERVICE DISTRICT'S
WATER SYSTEM AND RELATED ASSETS AT A PURCHASE
PRICE OF \$73,356, AND TO ADD THE NEW DISTRICT, THE
BUZZTAIL DISTRICT, TO ITS SERVICE TARIFFS.**

SUMMARY

By Advice Letter 420, filed on July 30, 2015, Del Oro Water Company requests Commission authority to: 1) acquire the Buzztail Community Service District's water system and related assets at a purchase price of \$73,356, under the terms and conditions set-forth in the May 9, 2014 Purchase Agreement between Del Oro Water Company and Buzztail Community Service District; and 2) add the new district, the Buzztail District, to its utility service tariffs.

This Resolution authorizes the following: 1) grants Del Oro Water Company the authority to acquire Buzztail Community Service District's water system assets at a purchase price of \$73,356 under the terms and conditions set-forth in the May 9, 2014 Purchase Agreement between Del Oro Water Company and Buzztail Community Service District; 2) finds the purchase price of \$73,356 reasonable for establishing the rate base amount for the new district, the Buzztail District; and 3) grants Del Oro Water Company the authority to add the Buzztail District to its utility service tariffs.

This Resolution also finds that Del Oro Water Company's acquisition of Buzztail Community Service District meets the ratepayer indifference test,¹ the standard used by the Commission in its evaluation and approval of the sale/purchase of public utilities

¹ Under the ratepayer indifference test, any sale of a public utility should not have any net consequences that cause the ratepayer to prefer the seller to the buyer.

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with Traver and Black Butte water companies in Decisions (D.) 15-08-036 and D. 15-09-015. The transfer of operations of the Buzztail Community Service District's water system is conditioned on Del Oro Water Company obtaining the required permit from the State Water Resources Control Board, Division of Drinking Water, for the operation of the water system.

BACKGROUND

Pursuant to Section 5 of General Order No. 96-B, Section 8.1 of the Water Industry Rules in General Order 96-B, on July 30, 2015 Del Oro Water Company (DOWC) filed Advice Letter (AL) 420, requesting Commission authority to: (1) acquire Buzztail Community Service District's (BCSD) water system (water facilities, delivery assets and real property upon which they are situated) at a purchase price of \$73,356 under the terms and conditions set-forth in the May 9, 2014 Purchase Agreement between DOWC and BCSD (Purchase Agreement) described herein; and 2) add the new district, the Buzztail District, to its service tariffs (service area map, metered and irrigation service tariffs, and other applicable tariffs).

BCSD is a mutual water company with thirty-four (34) service connections located in an incorporated area of Butte County known as Upper Stilson Canyon approximately forty-five minutes from DOWC's service center in Magalia. BCSD's water system consists of one water well with an estimated capacity ranging from 55 to 70 gallons per minute (gpm), an 80,000 gallon water storage tank and a 10,000 gallon hydro-pneumatic pressure tank, and the water distribution facilities.²

Public Utilities (Pub. Util.) Code Sections 851-854 only apply to acquisitions of public utilities and are not triggered when a Commission regulated water utility seeks to acquire a mutual water company. DOWC's request to acquire the BCSD therefore does not trigger Pub. Util. Code Sections 851-854 requiring approval of the acquisition through a formal application.

² Butte County Environmental Health Division October 8, 2012 Technical Report.

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DOWC's and BCSD's Purchase Agreement

Under the terms of the Purchase Agreement, DOWC agrees to: 1) a purchase price of \$73,356 for the acquisition of BCSD's water system and related assets, a list of the assets³ included in the purchase price is provided in Table 1 of this resolution; 2) retain and continue to charge the existing rates for a period of three years (the service tariffs and rates are provided in Appendix A of this resolution) from the effective date of the transfer of ownership; 3) not file for a General Rate Case (GRC) during the first three years from the date of the transfer, and only consider annual cost of living adjustments and rate base off-sets for major system repairs such as a pump and/or distribution line failures; and 4) pay \$10,000, one-half of the estimated costs, for system improvements necessary to provide water service to Doe Mill Vineyards (DMV)⁴ under the Irrigation Tariff scheduled provided in Appendix A.

Table 1

Buzztail District Assets	
Land	\$ 4,072
Structures	\$ 24,450
Pumping Equipment	\$ 35,405
Water Storage Tanks	\$ 50,904
Meters	\$ 7,650
Other Equipment	\$ 5,812
	\$ 128,293
Depreciation	\$ (54,934)
Total Net Assets	\$ 73,359

BCSD agrees to establish a \$40,000 reserve fund to pay for the first \$10,000 of Butte County's Local Agency Formation Commission (LAFCO) fees associated with the

³ The value of the assets is based on the March 20, 2015 independent auditor's report by Holly B. Pladson, Certified Public Accountant, included in DOWC's advice letter filing which valued the depreciable assets as of June 30, 2014 after accounting for accumulated depreciation of the assets.

⁴ October 22, 2014 Agreement between DOWC, BCSD, and DMV.

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transfer of ownership and the remaining balance of \$30,000 for any operational losses DOWC incurs during the first three years, and/or necessary system improvements.⁵

On July 2, 2015 by Resolution No. 24, Butte County's LAFCO approved BCSD's divestiture of water service powers, conditioned on the Commission's approval of DOWC's acquisition of BCSD and DOWC obtaining the required permit from the State Water Resources Control Board's Division of Drinking Water (DDW) to operate the BCSD's water system. DOWC on December 12, 2014 filed Application No. 14-12-15 with the SWRCB for the permit and the approval of the Application is pending.

RESPONSE/PROTEST

In accordance with General Order 96-B, AL 420 was served to DOWC's general service area on July 30, 2015. A customer notice was provided to BCSD's customers on August 14, 2015. No comments or protests letters were received.

DISCUSSION

Pub. Util. Code Section 2718-2720⁶ encourage the acquisition of small water systems by larger, more financially secured entities, given the increased amounts of capital required to finance the investment in water system infrastructure, and to achieve higher economies of scale in the operation of these systems. Pub. Util. Code Section 2720 requires that a fair market value be used when determining the rate base for an acquired system.

The Commission's standard of review for evaluating the sale/purchase of a public utility requires a test of ratepayer indifference and the buyer to demonstrate that the acquisition of the public utility yields a tangible benefit to ratepayers.⁷ Under the ratepayer indifference test the following factors are evaluated: 1) service quality; 2) continuity of service; and 3) the impact the purchase price has on rate base. Most

⁵ Any system improvements that uses BCSD's funds would be excluded from rate base and treated as contributed plant for ratemaking purposes since they are not being paid for by DOWC.

⁶ Chapter 2.5 Public Water System Investment and Consolidation Act of 1997.

⁷ See D.05-04-47 at 9-11, D.04-01-066 at 8-11, D.01-09-057 at 26-28.

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recently, the Commission used this standard for evaluating DOWC's acquisitions of Black Butte and Traver Water Companies in D.15-08-036 and D.15-09-015. While BCSD is not a public utility, the Division of Water and Audits (Division) believes that the ratepayer indifference test also provides a reasonable standard of review for DOWC's acquisition of BCSD. The Division therefore applied this standard in its evaluation of DOWC's acquisition of BCSD as discussed below.

1. How will the proposed acquisition of BCSD affect service quality?

DOWC has been operating water systems under the Commission's jurisdiction since 1963 and currently provides water service to approximately 8,500 customers in sixteen (16) service districts throughout California. DOWC has the financial resources⁸ and technical experience operating water systems to take over the BCSD's system operations and ensure that the water supply complies with SWRCB's DDW and federal water quality standards for safe drinking water. DOWC's acquisition of BCSD water system will ensure continued access to safe and reliable water service for BCSD customers.

DOWC also operates from its service center in Magalia four additional districts which are also located in Butte County: the Magalia, the Paradise Pines, the Lime Saddle and the Stirling Bluffs districts. The operation of BCSD water system would therefore be managed from DOWC's service center in Magalia. DOWC also indicated that it has contracted local personnel on site in the Buzztail District to back-up regular scheduled personnel, in the event it is needed. DOWC is therefore well positioned to manage and take over the BCSD's water system operations and continue to provide safe and reliable water service.

2. How will the proposed acquisition affect service continuity?

The Purchase Agreement provides for an orderly transition of the BCSD's water system operations and service continuity. DOWC will continue to charge the BCSD customers the existing rates for a period of three years from the effective date of the transfer, and not file for a GRC during this period. Also, DOWC will only consider annual cost of

⁸ For 2014, DOWC's total revenues were approximately \$5.3 million with \$4.4 million in operating expenses; and its 2014 assets were approximately \$23.2 million (2014 Annual Report at 7 and 10).

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living adjustments and rate base off-sets for major system repairs such as a pump or distribution line failures.

BCSD will also establish a \$40,000 reserve fund to pay for the first \$10,000 of Butte County LAFCO fees and the remaining balance of \$30,000 for any operational losses DOWC incurs during the first three years, and/or necessary system improvements.

3. Is the purchase price reasonable and properly calculated?

Under the Purchase Agreement, DOWC agrees to a purchase price of \$73,359 for the acquisition of BCSD water system and related assets (Table 1 provides a list of the assets). The Division finds the purchase price reasonable based on its review of the financial valuation of the assets provided in the independent auditor's report, included in DOWC's AL filing, and review of the assets included in the purchase price. The Division therefore finds the purchase price of \$73,359 reasonable for establishing the rate base amount for the Buzztail District.

4. Does DOWC's Acquisition of BCSD require an environmental review under California Environmental Quality Act (CEQA)?

The Commission in D. 15-08-036 and D.15-09-015 found in its approval of DOWC's acquisition of Black Butte and Traver Water Companies, that these sales did not trigger CEQA because it only involved a proposed change in control and operation of existing water facilities, and did not involve new construction or changes in source supply. DOWC in its request to acquire BCSD is also not proposing any new construction or changes in the source supply and therefore the Division finds that a CEQA review is not required, consistent with the Commission's prior decisions.

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CONCLUSION

The Division thoroughly reviewed DOWC's AL 420 filing, the Purchase Agreement and all workpapers, and the Division is persuaded that DOWC's requested acquisition of BCSD's water system is reasonable, in the public interest, and meets the ratepayer indifference test standard. The Division therefore recommends approval of DOWC's acquisition of BCSD.

SAFETY CONSIDERATIONS

Pub. Util. Code Section 451 requires every public utility to maintain adequate, efficient, just and reasonable service to promote the "safety, health, comfort, and convenience of its patrons, employees, and the public." DOWC has been providing water service to the public for over 50 years. DOWC has the experience and resources to continue to operate BCSD water system in a safe, reliable, and efficient manner. The Division therefore finds that the acquisition of BCSD by DOWC will ensure the health and safety of BCSD customers.

COMMENTS

This is an uncontested matter in which the resolution grants the relief requested. Accordingly, pursuant to Public Utilities Code Section 311(g)(2) the otherwise applicable 30-day period for public review and comment is waived.

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FINDINGS

1. Del Oro Water Company's (DOWC) request by Advice Letter 420, to acquire the Buzztail Community Service District's (BCSD) water system and related assets meets the ratepayer indifference test standard, in that BCSD customers will be unaffected in terms of service quality and continuity of service, and should be approved.
2. The purchase price of \$73,359 for acquisition of BCSD's water system and related assets is a reasonable for establishing the rate base amount for DOWC's Buzztail District.
3. An environmental review under the California Environmental Quality Act (CEQA) is not required for the acquisition of BCSD since DOWC is not proposing any new construction or changes in the source supply for the water system, consistent with Commission's determination in its approval of DOWC's acquisitions of Black Butte and Traver Water Companies in D. 15-08-036 and D. 15-09-015.
4. DOWC should be granted the authority to file a Tier 1 Advice Letter to add the new district, the Buzztail District, to its service tariffs (service area map, the Metered and Irrigation Service Tariffs (included in Appendix A of this Resolution), and other applicable tariffs).
5. DOWC should not take possession of the BCSD water system and collect tariff rates from its new Buzztail District customers until it has received the required operating permit from State Water Resources Control Board, Division of Drinking Water.

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THEREFORE, IT IS ORDERED THAT:

1. Del Oro Water Company's request for authorization to acquire Buzztail Community Services District under the terms and conditions set-forth in the May 9, 2014 Purchase Agreement between Del Oro Water Company and Buzztail Community Service District is granted.
2. Authority is granted to Del Oro Water Company to file a Tier 1 Advice Letter to add the new district, the Buzztail District, to its service tariffs: a service area map, the Metered and Irrigation Service Tariffs included Appendix A of this Resolution, and other applicable tariffs.
3. Del Oro Water Company shall not take possession of the Buzztail Community Services District's water system and collect tariff rates from customers until it has received the required operating permit from State Water Resources Control Board, Division of Drinking Water. Del Oro Water Company shall provide a copy of the permit to the Division of Water and Audits prior to taking over the water system operations and implementing the Metered and Irrigation Service Tariffs included in Appendix A of this Resolution.
4. This Resolution is effective today.

I certify that the foregoing resolution was duly introduced, passed, and adopted at a conference of the Public Utilities Commission of the State of California held on November 19, 2015; the following Commissioners voting favorably thereon:

TIMOTHY J. SULLIVAN
Executive Director

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APPENDIX A

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Schedule No. BT-1

GENERAL METERED SERVICE

BUZZTAIL DISTRICT

APPLICABILITY

Applicable to all water service.

TERRITORY

All territory served by Del Oro Water Company, Inc, in the unincorporated area of Butte County known as the Upper Stilson Canyon Located east of State Route 32 and northeast of Chico.

RATES

Quantity Rates:

	<u>Per Meter</u> <u>Per Month</u>
For all water up to 30,000 gallons per 1,000 gallons	\$ 2.00
For all water over 30,001 – 100,000 gallons per 1,000 gallons	\$ 3.00
For all water over 100,000 gallons per 1,000 gallons	\$ 5.00

Monthly Service Charge:

For 5/8 x 3/4 –inch meter	\$60.00
For 3/4 –inch meter	60.00
For 1 –inch meter	60.00
For 1-1/2 –inch meter	60.00
For 2 –inch meter	60.00

The Service Charge is a readiness-to-serve charge, which is applied to all metered service and to which is added the month charge computed at the Quantity Rate.

SPECIAL CONDITIONS

1. The annual service charge applies to service during the 12 month period commencing January 1 and is due in advance. If a permanent resident of the area has been a customer of the utility for at least 12 months, the resident may elect, as the beginning of the calendar year, to pay prorated service charges in advance at intervals of less than one year in accordance with the utility's established billing periods.
2. The established billing cycle for water used is monthly.

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Schedule No. BT-1
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GENERAL METERED SERVICE

BUZZTAIL DISTRICT

SPECIAL CONDITIONS (Cont'd.)

3. The opening bill for metered service, except upon conversion from flat rate service, shall be established after the first day of any year, the portion of such annual charge applicable to the current year shall be determined by multiplying the annual charge by one three-hundred-sixty-fifth ($1/365$) of the number of days remaining in the calendar year. The balance of the payment of the initial annual charge shall be credited against the charges for the succeeding annual period. If service is not continued for at least one year after the date of initial service, no refund of the initial annual charges shall be due the customers.
4. All bills are subject to reimbursement fee set forth on Schedule No. UF.
5. A late charge will be imposed per Schedule No. LC.
6. In accordance with Section 2714 of the Public Utilities Code, if a tenant in a rental unit leaves owing the company, service to subsequent tenants in that unit will, at the company's option, be furnished on the account of the landlord or property owner.
7. Connection fees were previously established at \$10,000.00 by Buzztail Community Service District Board of Directors.

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APPENDIX A

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Schedule No. BT-2

IRRIGATION SERVICE

BUZZTAIL DISTRICT

APPLICABILITY

Applicable to all metered irrigation service.

TERRITORY

All territory served by Del Oro Water Company, Inc. in the unincorporated area of Butte County known as the Upper Stilson Canyon located east of State Route 32 and northeast of Chico.

RATES

Quantity Rate:

For all water up to 30,000 gallons per 1,000 gallons	\$ 2.00
For all water over 30,001 gallons per 1,000 gallons	\$ 3.187

Service Charge:

For 5/8 x 3/4 –inch meter	\$60.00
For 3/4 –inch meter	60.00
For 1 –inch meter	60.00
For 1-1/2 –inch meter	60.00
For 2 –inch meter	60.00

The Service Charge is a readiness-to-serve charge, which is applied to all metered service and to which is added the month charge computed at the Quantity Rate.

SPECIAL CONDITIONS

1. The annual service charge applies to service during the 12 month period commencing January 1 and is due in advance. If a permanent resident of the area has been a customer of the utility for at least 12 months, the resident may elect, as the beginning of the calendar year, to pay prorated service charges in advance at intervals of less than one year in accordance with the utility's established billing periods.
2. The established billing cycle for water used is monthly.
3. The opening bill for metered service, except upon conversion from flat rate service, shall be established after the first day of any year, the portion of such annual charge applicable to the current year shall be determined by multiplying the annual charge by one three-hundred-sixty-fifth (1/365) of the number of days remaining in the calendar year. The balance of the payment of the initial annual charge shall be credited against the charges for the succeeding annual period. If service is not continued for at least one year after the date of initial service, no refund of the initial annual charges shall be due the customers.

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Schedule No. BT-2
(Continued)

IRRIGATION SERVICE

BUZZTAIL DISTRICT

SPECIAL CONDITIONS (Cont'd.)

4. This service is secondary to domestic service and a reserve for fire inspection and the utility must be given 24 hours notice before each irrigation. In the event that insufficient water is available for all irrigation users to be served at the same time, rotation of use may be required.
5. In accordance with Section 2714 of the Public Utilities Code, if a tenant in a rental unit leaves owing the Utility, service to subsequent tenants in that unit will, at the Company's option, be furnished on the account of the landlord or property owner.
6. Each property owner shall be responsible to install back-flow prevention device on domestic supply per Water Co. Requirements.
7. All bills are subject to the 1.5% PUC reimbursement fee set forth in Schedule No. UF.
8. A late charge will be imposed per Schedule No. LC.

END OF APPENDIX A

**Del Oro Water Company
Advice Letter 420
Service List**

<p>California Public Utilities Commission Daniel Song Division of Water and Audits 415-703-2691 water_division@cpuc.ca.gov</p> <p>California Public Utilities Commission Division of Ratepayer Advocates dra_water_al@cpuc.ca.gov</p> <p>Del Oro Water Company Janice Hanna, Director of Corporate Accounting jeh@corporatecenter.us</p> <p>Stephanie Sprague, Staff Accountant stephanie@corporatecenter.us</p> <p>Tara Campbell, Staff Accountant tlc@corporatecenter.us</p> <p>Cheryl Carter, Accounts Receivable cmc@corporatecenter.us</p> <p>Del Oro Water Company, Inc. servicelist@delorowater.com</p> <p>Buzztail Community Services District Attn: Richard N. Tooker, President PO Box 7303 Chico, CA 95927 richard@tooker.com casadearmstrong@gmail.com bookwormto@aol.com</p>	<p>Butte County, Chief Administration Officer Paul Hahn 25 County Center Drive Oroville, CA 95966 1-530-538-7631 phahn@buttecounty.net</p> <p>Butte County Water and Resource Conservation Ms. Vickie Newlin 308 Nelson Avenue Oroville, CA 95965 1-530-538-4343 vnewlin@buttecounty.net</p> <p>County of Butte, Board of Supervisors Attn: Robin Bennett 747 Elliott Road Paradise, CA 95969 1-530-872-6304 dteeter@buttecounty.net</p> <p>Paradise Irrigation District Attn: Kevin Phillips P.O. Box 2409 Paradise, CA 95967 1-530-877-4971 kphillips@paradiseirrigation.com</p> <p>LAFCO Attn: Stephen Lucas, Executive Officer 1453 Downer Street, Suite C Oroville, CA 95965 Slucas@buttecounty.net</p>
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